SINGLE BENCH

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IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR (C.G.)

WRIT PETITION (C) NO. 6567 OF 2006

PETITIONERS : 1. Raghav Prasad Son of Late Shri Ramvriksha, aged about 42 years;Caste Kewat;

PLAINTIFFS

2. Pradeep Kumar Son of Late Shri Ramvriksha, aged about 36 years, Caste Kewat;

3. Mst. Rajmaniya (wrongly mentioned as Rajmaniyasa in the impugned order), widow of Late Shri Ramvriksha, aged about 65 years, Caste Kewat;

All are residents of Village Mahuadeeh, Sub Tahsil Shankargarh, Tahsil Samri (Kusmi), District Surguja (C.G.).

P.R. No. 6584/06
Presented by V.K. Pandey
dated 21-11-06

VERSUS

RESPONDENTS : 1. Kalawati Wife of Late Shri Vindeshwari Prasad D/o Late Shri Ramvriksha, aged about 45 years; Caste Kewat, Resident of Village Mahuadeeh, Sub Tahsil Shankargarh, Tahsil Samri (Kusmi), District Surguja (C.G.).

DEFENDANTS

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2. Leelawati Wife of Shri Rajaram, D/o Late Shri Ramvriksha, aged about 40 years, Resident of Village Diwanibandh, Tahsil and Police Station Baikunthpur, District Korea (C.G.).

20/11/06

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(45)

मामला क्रमांक W.P.(C.) 6567/06 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

5.1.2007:

Mr.V.K. Pandey counsel for the petitioners.
Mr. Utkarsh Verma Dy. GA appears for respondent/State.

Heard.

The petitioners by the instant petition have impugned the order dated 12.9.2006 passed by the learned First Additional District Judge, Sarguja by which allowing the miscellaneous appeal preferred by the respondents/defendants the order of temporary injunction passed by the trial Court in favour of the petitioners has been set aside.

Learned counsel for the petitioners submits that the trial Court vide its order dated 14.12.2004 allowed the application for temporary injunction and stayed the revenue proceedings between the parties before the revenue Court and further directed maintenance of status quo with respect to the possession of the parties over their respective shares. However, the appellate Court has set-aside the above order. He submits that since the suit is pending between the parties it would be appropriate that the parallel proceedings before the Revenue Court ought to have been stayed which was rightly done by the trial Court. However, by the impugned order a reasoned order passed by the trial Court has been set-aside and therefore, interference is called for in exercise of the jurisdiction under Article 227 of the Constitution of India.

I have heard counsel for the petitioner and perused the order of the trial Court as also the appellate Court.

So far as the finding of the appellate Court that the order of the trial court maintaining status quo with respect to the share of the parties is

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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concerned, the same has been rightly passed as admittedly the property in question is a joint family property in which each and every party is in possession of their respective shares and in such circumstances no order of maintenance of status quo could be passed. However, the impugned order does not deal with that part of the order of the trial Court wherein the proceedings before the Revenue Court have been stayed and without considering that aspect the order of the trial Court has been set aside in toto.

In the aforesaid circumstances liberty is granted to the petitioner to move appropriate application before the trial Court for staying the proceedings before the revenue Court which shall be decided on its own merits after affording opportunity of hearing to the parties. If the parties are aggrieved by the said order they may take recourse to the remedies available under the law.

With the aforesaid observations the petition stands disposed of.

Sd/-
Dhirednra Mishra
Judge

P.T.O.